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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 ROGER D. SANDERS,

11 Plaintiff,

12 v.

13 STEVE MANSFIELD, *et al.*,

14 Defendants.

Case No. C07-5001FDB

REPORT AND
RECOMMENDATION

NOTED:
JUNE 22, 2007

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16 This civil rights action been referred to the undersigned Magistrate Judge pursuant to Title 28
17 U.S.C. §§ 636(b)(1)(A), 636(b)(1)(B), and Local MJR 1, 3 and 4. Plaintiff moves to dismiss his
18 case with prejudice.

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20 **DISCUSSION**

21 Rule 41(a)(1) of the Federal Rules of Civil Procedure provides, in pertinent part:

22 [A]n action may be dismissed by the plaintiff without order of court (i) by
23 filing a notice of dismissal at any time before service by the adverse party of an
answer or of a motion for summary judgment, whichever first occurs

24 Plaintiff alleges that he is being subjected to unconstitutional conditions of confinement, but
25 has been denied a “fair ground to litigate [his] civil rights complaint” in this Court. Plaintiff
26 complains that his motions for counsel and extended library time (Dkt. # 18) and motion for
27 handwriting expert (Dkt. # 70) were denied by the District Court and his motion for medical
28 evaluation (Dkt. # 69) has been recommended for denial by this Court. Therefore, Plaintiff requests

1 that his entire action be dismissed with prejudice.

2 Defendants have filed an answer, but there is no summary judgment motion pending.
3 Defendants join in Plaintiff's motion to dismiss, stating that each party should bear its own attorney
4 fees and costs. (Dkt. # 77).

5
6 **CONCLUSION**

7 The Court should dismiss this action as Plaintiff has stated that he no longer wishes to pursue
8 his litigation in this Court. No motion for summary judgment is pending in this action. A proposed
9 order accompanies this Report and Recommendation. As the undersigned is recommending
10 dismissal of this action, the Court will not consider Plaintiff's motion to file brief (Dkt. # 52).

11 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,
12 the parties shall have ten (10) days from service of this Report and Recommendation to file written
13 objections. *See also* Fed. R.Civ.P. 6. Failure to file objections will result in a waiver of those
14 objections for purposes of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time
15 limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on **June 22,**
16 **2007**, as noted in the caption and to strike Dkt. # 52 from the Court's Docket.

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18 DATED this 23rd day of May, 2007.

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21 Karen L. Strombom
22 United States Magistrate Judge
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